

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, August 1, 1997

DIVISION ONE

**A073708 Citizens For Responsible Government v. City Of Albany;
Ladbroke Racing California, Inc., et al., R.P.I.**

The judgment on the first and sixth causes of action is reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court for further proceedings consistent with this opinion. Cost to appellant. Swager, J. We concur: Strankman, P.J., Dossee, J. (Certified for Publication.)

DIVISION FOUR

A078576 Eddie Y. Huang v. Michael Hackworth, et al.

By The Court: The above-entitled appeal is ordered transferred from Division Four to Division Two of this court. The related appeal having been previously assigned to Division two, requires by this court's Internal Operating Practices and Procedures, Section 21 (b), to transfer this case to Division Two. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, A.P.J.

DIVISION FIVE

A076769 The People v. James Vernor Day.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Friday, August 1, 1997 (continued)

A078820 Heather W., An Incompetent Person, etc. v. The Superior Court Of Alameda County; Alameda County Social Services Agency, R.P.I.

By The Court: The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) Since the section 366.26 hearing is set for August 15, 1997, this opinion is final as to this court forthwith. (See rule 24(d).) Peterson, P.J., Haning, J., and Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, August 4, 1997

DIVISION ONE

**A076183 Richa Vahle, et al v. Silverado Country Club & Resort, et al.;
Borton, Petrini & Conron.**

Accordingly, appellants' lack of standing to pursue the present appeal dictates that we dismiss it. (Calhoun v. Vallejo City Unified School Dist., supra, at pp. 42-46; see also Wright v. Fireman's Fund Ins. Companies (1992) 11 Cal.App.4th 998, 1010, fn. 5.) Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A072044 The People v. Mariafelissa Smith.

By The Court: The petition for rehearing is denied. The written opinion filed on July 3, 1997, is modified in the following respects: (See order) These modifications do not effect a change in the judgment. Kline, P.J.

A075751 The People v. Donna F. Stanley.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A078819 Khyber Pass Imports v. The Superior Court Of Alameda
County; 2510 Regent Street Partnership, R.P.I.**

By The Court: The petition for writ of prohibition is denied. Kline, P.J.

Monday, August 4, 1997 (continued)

DIVISION THREE

A072334/A075773 The People v. Jerry Wayne Allen.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J.
(Not for Publication.)

A075773 In re Jerry Wayne Allen, on Habeas Corpus.

The Warden of Salinas Valley State Prison, Soledad, is ordered to show cause before the Superior Court of the State of California in and for the County of Alameda, when ordered on its calendar, why it is not reasonably probable petitioner would have received a more favorable result at trial had Gregory McLaughlin testified. (See generally, *In re Lawler* (1979) 23 Cal.3d 190, 194; *In re Hochberg* (1970) 2 Cal.3d 870, 875, fn.4.) A certified copy of this order to show cause together with a copy of the petition and other documents filed herein shall be served by this court on respondent and on the Alameda County Superior Court on or before thirty days from the date of this order. The written return to this order to show cause shall be filed in Alameda County Superior Court on or before sixty days from the date of this order. Any traverse to the return shall be served and filed on or before twenty days from the date of filing of the written return Phelan, P.J.

DIVISION FOUR

A078996 S. Kimberly Belshe, Director of the Department of Health Services. v. United States Fidelity & Guaranty Company.

By The Court: The above-entitled appeal is ordered transferred from Division Four to Division Two of this court. The related appeal having been previously assigned to Division Two, requires by this court's Internal Operating Practices and Procedures, Section 21(b), to transfer this case to Division Two. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, A.P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Monday, August 4, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza,
303 Second Street, 4th Floor, San Francisco, California.

Present: Strankman,, P.J. Stein, J. and Swager, J.
J. Bagoye, Deputy Clerk.

All counsel stipulated to proceed with oral arguments in light Justice
Stein's absence from the session.

- A074043 People,
 v.
 Larry Trawick.
Cause called and argued by Kent Russell for appellant and Allan
Yannow, Deputy Attorney General for respondent. Cause ordered
submitted.
- A074434 People,
 v.
 Christopher Christensen.
Cause called and argued by Stephen Greenberg for appellant and
Juliet Haley, Deputy Attorney General for respondent. Cause
ordered submitted.
- A075202 Philip Gaynor,
 v.
 Maynard Munger.
Cause called and argued by Joseph Wood for appellant and Jon
Kouba for respondent. Cause ordered submitted.

- A072698 Kozy Moving & Storage,
v.
State Compensation Insurance Fund.
Cause called and argued by Wesley Lowe for appellant and Paul Glad for respondent. Cause ordered submitted.
- A076429 Sean Hayworth,
v.
University of California Regents.
Cause called and argued by Mark Davis for appellant and Patrick Moore for respondent. Cause ordered submitted.
- A077078 Francine Wiley,
v.
David A. Long, et al.
Cause called and argued by Francine Wiley as appellant in pro per and Jason Lee and John Blackman for respondents. Cause ordered submitted.

Court recessed until 2:00 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Monday, August 4, 1997 (continued)

Court convened at 2:00 p.m. in its Courtroom, at Marathon Plaza,
303 Second Street, 4th Floor, San Francisco, California.

Present: Strankman, P.J., Dossee, J. and Swager, J.
J. Bagoye, Deputy Clerk.

- A075367 People,
 v.
 David Brazil.
Cause called and argued by Scott Drexel for appellant and Linda
Murphy, Deputy Attorney General for respondent. Cause ordered
submitted.
- A076463 People,
 v.
 Marquette E., Minor.
Cause called and argued by Kenneth Noel for appellant and
Christina Kuo, Deputy Attorney General for respondent. Cause
ordered submitted.
- A075753 Daniel Starr,
 v.
 Sutro Tower, Inc.
Cause called and argued by Ann Harrington for appellant and Jesper
Rasmussen for respondent. Cause ordered submitted.
- A075214 Mark West Creek Preservation Association, et al.,
 v.
 County of Sonoma, et al.
Cause called and argued by Rose Zoia for appellants and Clayton
Clement, for respondent. Cause ordered submitted.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Monday, August 4, 1997 (continued)

At this point, Presiding Justice Strankman leaves the bench and is replaced by Justice Stein for the remainder of the calendar. All counsel stipulated to proceed with oral arguments in light Justice Stein's absence from the session.

A072395 People,
 v.
 Johnny Barnes.
Cause called and argued by Norton Tooby for appellant and Allan Yannow, Deputy Attorney General for respondent. Cause ordered submitted.

A074509 Hodge Food Services Incorporated, et al.,
 v.
 Mark J. Walker.
Cause called and argued by Daniel Krebs for appellant and Robert Stumpf for respondent. Cause ordered submitted.

Court recessed until Tuesday at 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLTE DISTRICT

DIVISION ONE

Tuesday, August 5, 1997

Court convened at 9:00 a.m. in its Courtroom, at Marathon Plaza,
303 Second Street, 4th Floor, San Francisco, California

Present: Strankman, P.J., Stein, J., and Dossee, J.
J. Bagoye, Deputy Clerk

- A074513 Giovanni Lococo, et al.,
 v.
 Ada Torrignino, et al.,
 Cause called and argued by Domenic Cannizaro for appellant and
 Howard Churchill for respondent. Cause ordered submitted.
- A073743 Edgar Suter, M.D., et al,
 v.
 City of Lafayette.
 Cause called and argued by Don Kates for appellant and Charles
 Williams for respondent. Cause ordered submitted.
- A076705 Fred Labankoff,
 v.
 California Supreme Court.
 Cause called and with no appearance by appellant and
 argument waived by Keith Yamanaka, Deputy Attorney General for
 respondent. Cause ordered submitted without argument..

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION ONE

Tuesday, August 5, 1997 (continued)

A073501 David Deutsch,
 v.
 American Export Lines, et al..
Cause called and argued by Larry Henson for appellant and Jeff
Ryan for respondent. Cause ordered submitted.

Oral argument having been deemed waived, the following case is
ordered submitted.

A076832 Walsh v. Guzzi

Court Adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, August 6, 1997

DIVISION TWO

A074803 Evelia Cruz et al. v. Augusto Mercado et al.

The order appealed from is affirmed. Haerle, Acting P.J. We concur:
Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A078248 Patricia A. McColm v. Richard Alvarez.

Order Modifying Opinion and Denying Rehearing. By The Court: It is ordered that the opinion filed herein on July 8, 1997, be modified in its entirety so that the opinion reads: (See order) The appeal is dismissed. The application for waiver of filing fees is denied as moot. The petition for rehearing is denied. There is no change in the judgment. Phelan, P.J. (Not for Publication.)

A078678 Patricia A. McColm v. Marquez Bautista et al.

By The Court: Appellant's petition for rehearing is granted. The request for judicial notice is denied as moot. This order shall also constitute a notice that appellant has been declared a vexatious litigant subject to a prefiling order under subdivision (a) of Code of Civil Procedure section 391.7. Appellant shall have 10 days from the filing date of this order to seek an order from the Administrative Presiding Justice of this court, under subdivision (b) of section 391.7 permitting her to continue prosecuting this appeal. If no such application is filed within 10 days, this appeal shall be dismissed. Phelan, P.J.

Wednesday, August 6, 1997 (continued)

DIVISION FOUR

A076616 The People v. Horace Gene Jordan.

The judgment is affirmed. Anderson, P.J. We concur: Poche, J., Hanlon, J.
(Not for Publication.)

DIVISION FIVE

A073924 East Bay Municipal Utility District v. St. Paul Surplus Lines Insurance Company.

The judgment is reversed. The matter is remanded for a new trial, consistent with the views expressed herein, on the following issues: (1) Whether EBMUD exhausted its retained limit and, if so, when. (2) If EBMUD did exhaust its retained limit and thus triggered St. Paul's obligation to defend, (a) what compensatory damages, if any, EBMUD suffered as a result of a breach of the duty to defend by St. Paul; (b) whether St. Paul thereby acted in bad faith; and (c) whether punitive damages against St. Paul are warranted and, if so, the amount thereof. The parties shall bear their own costs on appeal. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Wednesday, August 6, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza,
South Tower - Fourth Floor, 303 Second Street, San Francisco.
Present: Phelan, P.J., Corrigan, J., Walker, J., and J. Casados,
Deputy Clerk.

Justice Phelan announced that he would not be participating on the first two cases to be argued. The panel will consist of Corrigan, Acting P.J., Parrilli, J. and Walker, J.

A072658 The People,
 v.
 Carlyn Tyrell Hodges.
Cause called and argued by Stephen Bedrick, counsel for Appellant,
and Gregory Ott, Deputy Attorney General, counsel for Respondent.
Cause ordered submitted.

A071960 Rickey Jones et al.,
 v.
 San Francisco Unified School District.
Cause called and argued by Kenneth Pratt, counsel for Appellant,
and by telephone conference Robyn Lipsky, Deputy City Attorney,
counsel for Respondent. Cause ordered submitted.

Justice Phelan announced that Walker, J. will not be participating in the next case to be heard for argument. The panel will consist of Phelan, P.J., Corrigan, J., and Parrilli, J.

A074630 Javon Rahmann,
 v.
 Union Pacific Railroad Company, et al.
 Cause called and argued by Doris Slater, counsel for Appellant;
 and John P. Cotter, counsel for Respondent. Cause ordered
 submitted.

Justice Phelan announced that Corrigan, J. will not be participating in the next case to be heard at argument. the panel will consist of Phelan, P.J., Parrilli, J., and Walker, J.

A074108 San Francisco Bay Guardian,
 v.
 City of Richmond et al.
 Cause called and argued by James R. Wheaton, counsel for
 Appellant and Everest Jenkins, Deputy City Attorney, counsel for
 Respondent Cause ordered submitted.

Justice Walker left the bench. The panel will consist of Phelan, J., Corrigan, J., and Parrilli, J.

A075968 Foster Engineering, Inc.,
 v.
 San Francisco Unified School District.
 Cause called and argued by Andrew Schneider, counsel for
 Appellant, and Anthony Flores, counsel for Respondent. Cause
 argued and submitted.

Court Adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
Thursday, August 7, 1997

DIVISION TWO

A073575 The People v. William David Stephens.

By The Court: The petition for rehearing is denied. Kline, P.J.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION TWO

Thursday, August 7, 1997

Court met at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A068031 Antonio M. Garcia
 v.
 Vivek Hejmadi, et al.
 Cause called and argued by Peter R. Chernik, counsel for appellants
 and Dennis L. Livingston, counsel for respondent. Cause ordered
 submitted.
- A075519 Mark Notz, et al.
 v.
 Ticketmaster Corp., et al.
 Cause called and argued by Joseph Alioto, counsel for appellants
 and Francis Scarpulla, counsel for respondents. Cause ordered
 submitted.
- A071768 Olin McFolin
 v.
 C. L. Keck, et al.
 Cause called and argued by Michael S. Keck, counsel for appellants
 and Christopher Hays, counsel for respondent. Cause ordered
 submitted.

A075075 Angeline Marie Auer
v.
Defense Technology Corp.
Cause called and argued (telephonically) by Andre Gaston, counsel
for appellant and C. Michael Carrigan, counsel for respondent.
Cause ordered submitted.

At this point, Justice Lambden left the bench and Justice Ruvolo
joined the bench.

A073943 The People
v.
Richard Anthony Catalano
Cause called and argued by Peter Gold, counsel for appellant and
telephonically) by David Rose, Deputy Attorney General, counsel
for respondent. Cause ordered submitted.

A073232 The People
v.

David Rajesh Harbans
A076731 In re David Rajesh Harbans, on Habeas Corpus
Cause called and argued by Philip M. Brooks, counsel for appellant
and (telephonically) by Aileen Bunney, Deputy Attorney General,
counsel for respondent. Causes ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. in its courtroom at 303 - 2nd Street,
Fourth Floor, San Francisco. Present: Kline, P.J., Haerle, J.,
Ruvolo, J. and I Cespedes, Deputy Clerk.

A078742 Teresa M.,
v.
Superior Court, County of San Francisco,
San Francisco Dept. of Social Services, RPI.
Cause called and argued by Joseph Toms, counsel for appellant,
and Ellen Formen, counsel for respondent. Cause ordered
submitted.

- A074144 Robert Jones,
 v.
 Dutra Construction.
 Cause called and argued by John Hillsman, counsel for appellant,
 and Richard Wootton, counsel for respondent. Cause ordered
 submitted.
- A075714 Ernest Padilla et al.,
 v.
 Fluor Corporation.
 Cause called and argued by James Oberman, counsel for appellant,
 and Judith Tury, counsel for respondent. Cause ordered submitted.
- A072944 Betty Leadford,
 v.
 John L. Leadford.
 Cause called and argued by Patricia Berkowitz, counsel for
 appellant, and David R. Baker, counsel for respondent. Cause
 ordered submitted.
- A071827 The People
 v.
 Brad Earl Crawford.
 Cause called and argued by Gary Garfinkle, counsel for appellant,
 and (telephonically) John Vance, Deputy Attorney General, counsel
 for respondent.

Court recessed until August 8, 1997 @ 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, August 8, 1997

DIVISION TWO

A072070 Sylvia McClease v. Home Depot U.S.A., Inc.

The judgment in this matter, as well as the order awarding McClease attorney fees and costs, is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A074723 Karl Schoen et al. v. California Department Of Forestry & Fire Protection et al.; Louisiana-Pacific Corporation, R.P.I.

Accordingly, we reverse the judgment and Schoen is awarded costs. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

DIVISION THREE

A067760 In re Jeannette G., et al., a Minor.

By The Court: The petition for rehearing is denied. Phelan, P.J.

A067760 In re Jeannette G. & Ivon G., Minors.

Order Modifying Opinion. By the Court: The opinion filed July 15, 1997, is hereby modified as follows. On page 27, the signature block for Presiding Justice Phelan is changed to Phelan, P.J. There is no change in the judgment. Phelan, P.J.

A073004 Syufy Enterprises v. Scarpulla, Francis O.

By The Court: The petition for rehearing is denied. Phelan, P.J.

Friday, August 8, 1997 (continued)

A073308 The People v. Lamerle Ronnie Johnson.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A064623 Der-Long Ding et al v. Shu-lin Liu et al.

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION TWO

Friday, August 8, 1997

Court met at 9:00 a.m. in its courtroom at 303-2nd Street, Fourth Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A076918 Virgil Lamont Hamilton
 v.
 Dept. of Developmental Services
 Cause called and argued by Asher Rubin, Deputy Attorney General,
 counsel for appellant and Timothy Brugh, counsel for respondent.
 Cause ordered submitted.
- A074037 The People
 v.
 Jason Scott Baker
 Cause called and argued (telephonically) by Eleanor Kraft, counsel
 for appellant and Rene Chacon, Deputy Attorney General, counsel
 for respondent. Cause ordered submitted.
- A073953 The People
 v.
 Anthony William Scott
 Cause called and argued by Majeed Samara, counsel for appellant
 and (telephonically) by Chris Grove, Deputy Attorney General,
 counsel for respondent. Cause ordered submitted.

A074740 The People
 v.
 Calvin Peterson
Cause called and argued by Philip McGough, counsel for appellant
and (telephonically) by Aileen Bunney, Deputy Attorney General,
counsel for respondent. Cause ordered submitted.

A075700 The People
 v.
 Robert Gary Barnes
Cause called and argued by Gina Arico-Smith, counsel for appellant
and Michael Banister, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.

A075569 The People
 v.
 Fernando Michael Roboostoff
Cause called and argued by Susan Hayes, counsel for appellants
and Michael Banister, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.

A072012 Ronald and Shirley Anderson
 v.
 Continental Insurance Company
Cause called and argued by James L. Hand, counsel for appellants
and Paul J. O'Rourke, Jr., counsel for respondent. Cause ordered
submitted.

A073106 Neil Fitzpatrick, et al.
 v.
 Ted Hayes, etc., et al
Cause called and argued by Richard Sherman, counsel for appellants
and William David McDowall, counsel for respondents. Cause
ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, August 11, 1997

DIVISION ONE

A074457 Sachiko Genger v. Robert Delsol et al.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Certified for Publication.)

A076617 The People v. Michael Edward Korell.

The Court: It is ordered that the opinion filed herein on July 16, 1997, be modified as follows: On page 6, the signature of "Stein, J." is changed to "Stein, Acting P.J." There is no change in the judgment. Stein, Acting P.J. (Not for Publication.)

A076705 Fred G. Labankoff v. California Supreme Court et al.

The appeal is dismissed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

A069375 The People Of The State Of California v. Kemper, Robert Charles.

By The Court: The petition for rehearing is denied. Stein, Acting P.J.

DIVISION TWO

A074230 Bruce Lamell, et al v. Julie Kingsley, et al.

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, August 11, 1997 (continued)

A074726 The People v. Stephen Mark Wolozon.

The order extending the commitment pursuant to Penal Code section 1026.5 is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A074905 Singler-Ernster, Inc. v. Insurance Company Of The West, et al.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A079392 Ralph Antonio Taylor v. The Superior Court Of Solano County; The People Of The State Of California, R.P.I.

By The Court: the petition for writ of mandate/prohibition is denied. Kline, P.J.

A079408 In re Muharem Kurbegovich, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION THREE

A077936 In re David B., a Minor.

The appeals are dismissed.

On July 25, 1997, father filed an appeal from the trial court's order terminating parental rights. This court has designated the new appeal as A079418. In the interest of efficiency, we shall strike the record filed in this matter (A077936) and order that record filed in the new appeal (A079418). The parties are directed to secure such corrections of or additions to the appellate record as are necessary and as are provided for in California Rules of Court, rules 12(b) and 35(e). Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

Monday, August 11, 1997 (continued)

DIVISION FOUR

A076322 Frankie D. Coleman v. Cicely A. Benbow and Lisa A. Cameron, as Personal Representatives, etc.

The cost order is affirmed. Respondent to recover costs on appeal. Poche, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

A077210 In re the Matter of Lamar L., a Minor.

The dispositions are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

A073793/A075276/A076590 Judy Anderson et al v. Deloitte & Touche LLP.

Respondent has not negated the cause of action for negligent misrepresentation by the limited partners in the Mazzocco and Jekel limited partnerships, and as to them the summary judgment must be reversed. The investors in the Lyeth and Domaine Laurier limited partnerships have failed to establish a cause of action against respondent, and the summary judgment of their claims is affirmed. The imposition of the referee's fee on appellants for the summary judgment motion was erroneous and must be reversed. The judgment is reversed and remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Haning, J. We concur: Peterson, P.J., Jones, J. (Certified for Partial Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, August 12, 1997

DIVISION ONE

A072698 Kozy Moving And Storage v. State Compensation Insurance Fund.

The judgment is reversed. Costs to appellant. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A073501 David Eugene Deutsch v. American Export Lines et al.

The judgment against Alex Ferasat is reversed; in all other respects, the judgment is affirmed. Each party to bear its own costs. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

A074042 & A074043 The People v. Harry Howard Trawick.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A074434 The People v. Christopher Michael Christensen.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A076463 The People v. Marquette E.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

Tuesday, August 12, 1997 (continued)

A077078/A077599 Francine Wiley v. Barbara A. DiFranza et al.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

A071417 The People v. Clyde Vincent Brewer.

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

A074645 The People v. Johnel Marquis Bailey.

We find the court's refusal to hold an innocent witness in custody until he could testify was not prejudicial. Similarly, reading the "unavailable" witness's testimony into the record was not prejudicial. The jury's finding of a great bodily enhancement is stricken pursuant to section 12022.7, subdivision (g), which has no effect on the sentence. As so modified, we affirm the judgment. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A075986 David R. Hartz v. O.P.S. Sales, Inc.

We find Hartz's injury which occurred 15 minutes after he finished his workshift and while making a personal telephone call on his employer's premises was covered by the Act. Accordingly, workers' compensation is Hartz's exclusive remedy and the court has no jurisdiction over his claim of negligence. We affirm the judgment, and Hartz is to pay costs. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A079437 Donald Plyler v. The Superior Court Of Contra Costa County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

Tuesday, August 12, 1997 (continued)

A079467 Thomas Wheeler v. The Superior Court Of San Francisco County; The People Of The State Of California, R.P.I.

By The Court: The Petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A079492 In re Thomas J. Swinney, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A079515 In re Charles W. Thompson, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

A072658 The People v. Carlyn T. Hodges.

The conviction for burglary in violation of Penal Code section 459 (count 3) is reversed. We remand for resentencing on defendant's conviction for unlawful driving or taking of a vehicle in violation of Vehicle Code section 10851, subdivision (a) (count 4), which was stayed pursuant to Penal Code section 654 because defendant was sentenced on count 3. We reverse the \$8,000 restitution order and remand the matter for hearing. We affirm in all other respects. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A074449 The People v. Jose Luis Granados et al.

The Judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Tuesday, August 12, 1997 (continued)

DIVISION FIVE

A072695 Milton Horowitz et al v. Lorillard, Inc., et al.

The judgment is affirmed. Costs to respondents. Haning, J. We concur:
Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION 4

Tuesday, August 12, 1997

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Anderson, P.J., and Hanlon, J.; Channing Hoo, Deputy Clerk; and CHP Officer C. Reese, Bailiff.

A075238 People v. Mario T. Ratliff

Cause called. Counsel confirmed waiving Justice Reardon's presence. Donald Lipmanson argued, through teleconference, on behalf of appellant Ratliff. Martin Kaye argued, through teleconference on behalf of respondent. Cause submitted.

A076066 Fern Dunham et al. v. Condor Insurance Company

Cause called. Counsel confirmed waiving Justice Poche's presence. James P. Collins argued on behalf of appellants Dunham et al. Lois Lindstrom argued on behalf of respondent. Cause submitted.

The court adjourned at 10:28 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, August 13, 1997

DIVISION ONE

A074509 Mark J. Walker v. Hodge Food Services, Inc. et al.

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A075202 Randall L. Gaynor, as Executor etc. v. Maynard Munger.

The judgment and order awarding attorney fees are reversed and the matter is remanded to the trial court for further proceedings consistent with this opinion. Costs to appellant. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A073112 Coastside County Water District v. Margaret A. Flynn et al.

The judgment and order taxing costs are affirmed. Respondent is entitled to costs on appeal. (Rule 26, Cal. Rules of Court.) Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A076944 In re Victor C., Jr., a Minor.

The order is affirmed. Kline, P.J., We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Wednesday, August 13, 1997 (continued)

DIVISION THREE

**A074359 Bailey A. Jones v. City Of Berkeley Rent Stabilization Board;
D. Smith et al., R.P.I.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, August 14, 1997

DIVISION ONE

A075367 The People v. David Eurie Brazil.

The findings on the section 23182 enhancements are reversed. In all other respects the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A075753 Daniel Jason Starr v. Sutro Tower, Inc.

The judgment is affirmed. Respondent is awarded costs on appeal. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076429 Sean Haworth v. Regents Of The University Of California.

The judgment is reversed and the matter is remanded to the trial court with directions to enter an order denying respondent's motion for summary judgment. Costs to appellant. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A076452 The People v. Arturo Hernandez-Andrade.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074958 Morelife, Inc. v. Lloyd Perry et al.

The judgment is affirmed. Ruvolo, J. I concur: Kline, P.J. See Concurring Opinion of Haerle J. (Certified for Publication.)

Thursday, August 14, 1997 (continued)

A074979 The People v. Shedrick L. Henry.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A075479 The People v. Thomas Harold Koontz.

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A075714 Ernest Padilla et al. v. Fluor Corporation et al.

For the foregoing reasons, the judgment of the trial court below is affirmed. Each party is to bear its own costs on this appeal. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A077115 The People v. Aprilyn Alice Graff.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A069164 The People v. Holdsworth, Steven James.

By The Court: The petition for rehearing is granted. Phelan, P.J.

DIVISION FIVE

A075093 Inetta L. Hankins v. State Of California, et al.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A076734 John Hewatt v. Michael L. Condon et al.

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, August 15, 1997

DIVISION ONE

A073381 The People v. George John Blakeley.

There are no meritorious issues to be argued. The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

A076256 The People v. William Edmond Vann.

The judgment is affirmed. Strankman, P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

DIVISION TWO

A071768 Olin McFolin v. C. L. Keck.

For the foregoing reasons, the judgment is reversed. Appellant shall recover costs. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, August 15, 1997 (continued)

A073484 The People v. Sudi Pebbles Trippet.

Appellant's convictions are vacated and, pursuant to Penal Code section 1260, the cause remanded to the trial court for further proceedings consistent with this opinion. To summarize our various holdings above, those proceedings would include the following factual determinations: as to the section 11357, subdivision (c), conviction: (1) whether Dr. Mikuriya "approved" or some other physician "recommended or approved" appellant's use of some or all of the marijuana of which she was in possession at the time of her arrest; (2) if so, whether and to what extent the quantity of marijuana which she then possessed was reasonably related to her then-current medical needs; and (3) what quantity of marijuana of which she was then in possession was related to her "religious purposes" usage (see footnote 15, ante). With respect to the section 11360, subdivision (a), conviction, the trier of fact will need to determine: (1) whether any (and if so what amount) of the marijuana appellant was transporting at the time of her arrest was, considering not only the quantity, but the method, timing and distance of the transportation, reasonably related to her then-current medical needs; and (2) what quantity of the marijuana she was transporting was related to her "religious purposes" usage.

The trial court will then need to consider whether any of the additional proof adduced by the parties justifies instructions on lesser-included offenses (i.e., sections 11357, subdivision (b), and 11360, subdivision (b)) and whether, if the retrial results in a conviction, any of that evidence impacts on the sentence the court determines to impose. Haerle, J. We concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A075552 The People v. Bernard Deberry, Jr.

The judgment of the trial court is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A075623 The People v. Escenthio Marigny.

A077097 In re Escenthio Marigny on Habeas Corpus.

We modify the judgment on the appeal (A075623) by adding a five-year enhancement term for the 1984 serious-felony prior (§ 667, subd. (a)(1)) and striking the prison-term prior and resulting one-year enhancement (§ 667.5, subd. (b)); the judgment is affirmed as so modified; and the superior court shall direct that an amended abstract of judgment be prepared and a copy be forwarded to the proper authorities. The petition for writ habeas corpus (A077097) is summarily denied. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, August 15, 1997 (continued)

DIVISION THREE

A070627 & A068481 In re Daniel K., a Minor.

The appeal is dismissed as being superseded by this court's later writ review and decision of October 31, 1995, which precludes further consideration of the issues raised here by appellant. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A076066 Fern Dunham et al. v. Condor Insurance Company et al.

The judgment is affirmed with costs to respondents. Hanlon, J. We concur: Anderson, P.J., Poche, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, August 18, 1997

DIVISION TWO

A074546 The People v. Gerardo Villaluna Pineda, Jr.

By The Court: The petition for rehearing is denied. Haerle, Acting P.J.

DIVISION THREE

A071331 In re Michael C. And Nicholle C., Minors.

The appeal is dismissed as moot to the extent it challenges (1) the order establishing jurisdiction over Nicholle, and (2) the July 25, 1995 disposition order removing Michael from his mother's custody. The order establishing jurisdiction over Michael is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A071960 Rickey Jones, et al. v. San Francisco Unified School District.

The judgment is affirmed. Costs to respondent. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A073878 The People v. Roger Hernandez.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

Monday, August 18, 1997 (continued)

A073913 In re Ryan M., a Minor.

A078029 In re Alice F. on Habeas Corpus.

The judgment terminating parental rights and finding adoption as the most appropriate permanent plan is AFFIRMED with respect to each of the three children Ryan, Timothy and Carl. Likewise, the writ of habeas corpus is DENIED. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A075442 The People v. Harold Rodney Lamb.

Affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A076199 The People v. Patrick Allen Potter.

The judgment and sentence are affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A076643 The People v. Richard A. Vranesevich.

The conviction for petty theft with a prior conviction of theft (§§ 484, subd. (a)/666) is reversed. In all other respects, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

A073346 In re the Marriage of John M. and Deloris M. Bellevue.

The judgment is affirmed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A073562 Werner S. Lewin, Jr. v. Phillip E. Anselmo.

A075014 Werner S. Lewin, Jr. v. Bruce Thompson et al.

Order Modifying Opinion And Denying Rehearing The Court: It is ordered that the opinion filed herein on July 22, 1997, in case No. A075014, be modified in the following particular: (See order) There is no change in the judgment. The petition for rehearing is denied. Anderson, P.J. (Certified for Partial Publication.)

Monday, August 18, 1997 (continued)

A073730 The People v. Lincoln Steffen Linsmith.

Order Modifying Opinion And Denying Rehearing The Court: It is ordered that the opinion filed herein on July 30, 1997, be modified in the following particulars: (See order) There is no change in the judgment. Appellant's petition for rehearing is denied. Anderson, P.J. (Not for Publication.)

A075434 The People v. Michael J. Pruett.

The judgment is affirmed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Certified for Publication.)

DIVISION FIVE

A075812 Ken Mintz, as President, etc., et al; Ernest F. Scherer, Jr., et al v. Stephen L. Weir, as County Clerk, etc., et al

A076648 San Ramon Valley Unified School District; Ernest F. Scherer, Jr. v. Joan Buchanan et al.

The judgments of the trial court are affirmed in every respect. The parties shall bear their own costs on appeal. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, August 19, 1997

DIVISION ONE

A074513 Giovanni Lococo et al. v. Ada Torrigino et al.

The judgment is reversed insofar as it awards costs and attorney fees to respondents. In all other respects the judgment is affirmed. Respondents are awarded their costs on appeal. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074003 Gestalt Development Corporation v. Oakland Redevelopment Agency.

We have concluded that the trial court erred in ruling that Developer's first cause of action, for anticipatory breach of contract, was barred by the doctrine of impossibility. Furthermore, the court erred in ruling that Developer's second and seventh cause of action, for negligence and negligent supervision, were barred by immunities granted by the Tort Claims Act, except that the allegations of misrepresentation in the negligence cause of action are barred by governmental immunity under section 818.8. Therefore, as to Developer's first, second, and seventh causes of action, summary judgment is reversed and the cause remanded for further proceedings consistent with this opinion. As to these causes of action, we express no opinion on the issues the trial court declined to rule upon on the ground that it considered them "moot", i.e., issues number 2 through 5, 24 and 25. In all other respects, summary judgment is affirmed. Developer is awarded costs on appeal. (Cal Rules of Court, rule 26, subd. (a).) Haerle, J. We concur: Kline P.J., Lambden, J. (Not for Publication.)

Tuesday, August 19, 1997 (continued)

DIVISION THREE

A072989 The People v. Dennis Patric Wilmot.

The judgment of conviction is affirmed. The matter is remanded for resentencing under People v. Superior Court (Romero), supra, 13 Cal.4th at pages 530-531. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A073675 The People v. Anthony Driver.

The judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A074397 The People v. Kenneth Raymond Calihan.

The judgment is modified to reflect 475 days of actual custody credit, 236 days of conduct credit, for a total of 711 days presentence custody credit. The trial court is directed to prepare a modified abstract of judgment and to forward a certified copy thereof to the Department of Corrections. In all other respects, the judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A074656 The People v. John E. Yi.

The issue of voluntariness of the confession is not properly before us following defendant's guilty plea and this appeal is dismissed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A074727 The People v. Darin Merrell Sherman.

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Certified for Partial Publication.)

Tuesday, August 19, 1997 (continued)

A078761 Crystal J. v. The Superior Court Of The City And County Of San Francisco; San Francisco Department Of Human Services, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888, 894; Bay Development, Ltd. v. Superior Court (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for September 10, 1997. Therefore, our decision is final in this court immediately. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

A076346 Charles Brusman, et al. v. City And County Of San Francisco, Et Al.

By The Court: The above-entitled appeal is transferred from Division Four to Division Three of this Court. The order is made pursuant to California Rules of Court, rule 20 (b) (1). Strankman, A.P.J.

DIVISION FIVE

A075752 Adrian Charles Pastori v. Century Properties Fund XX, et al.

We affirm the superior court's denial of class certification. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

A076503 Keith F. Pritchard v. Kubby And Pritchard et al.

The order filed on May 24, 1996, is reversed to the extent it states Pritchard is entitled to \$5,380.48 in partnership funds immediately. In all other respects, the order is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, August 19, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza, South Tower - Fourth Floor, 303 Second Street, San Francisco.

Present: Phelan P.J., Corrigan, J., Walker, J., and J. Casados, Deputy Clerk.

- A071904 The People,
 v.
 Teryl Anthony Williams.
Cause called and argued by Kieran Manjarrez, counsel for appellant, and Rene A. Chacon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A068408 LMP Corporation et al.,
 v.
 Universal Manufacturing Corporation et al.
Cause called and argued by Jerome B. Falk, counsel for appellant, and by, Eugene Crew, counsel for respondent. Cause ordered submitted.
- A075405 Tong Myung Park,
 v.
 County of San Mateo.
Cause called. No appearance by appellant. Ellen Krakow, counsel for respondent, willing to submit matter. Cause ordered submitted.

Justice Phelan left the bench. Justice Parrilli took her place on the bench.

A075217 Arthur Tong et al.,
 v.
 Marshall Cooperson, D.O., et al.
appellant Cause called and argued by Marguerite Meade, counsel for

 and Charles Bond, counsel for respondent. Cause ordered
 submitted.

A073930 Julius Mesterhazy et al.
 v.
 John L. Redman et al.,
 Cause called and argued by Robert Silverman, counsel for
 appellant, and Charles A. Hansen, counsel for respondent.
 Cause argued and submitted.

Court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION THREE

Tuesday, August 19, 1997

Court reconvened at 1:30 p.m. in its courtroom at Marathon Plaza-South Tower, 303 Second Street, Fourth Floor, San Francisco, CA. Present: Phelan, P.J., Corrigan, J., Walker, J., and C. Turner, Deputy Clerk.

A072220 First Republic Thrift & Loan,
 v.
 Chicago Title Company.
Cause called and argued by William Logan, counsel for
appellant, and Scott A. Sommer, counsel for respondent.
Cause ordered submitted.

Justice Walker left the bench and Justice Parrilli took her place on the bench.

A075484 In re Joseph H.,
 The People,
 v.
 Joseph H.
Cause called and argued by Sandy Uribe, counsel for
appellant, and Shannon Chase, Deputy Attorney General,
counsel for respondent.
Cause ordered submitted.

A077687 In re Maria Soto on Habeas Corpus,
Cause called and argued by Judith Gantz, counsel for
appellant, and Michael E. Banister, Deputy Attorney General,
counsel for respondent.

Michael E. Banister to submit supplemental letter briefs in 10
days. Brief not to exceed 5 pages in length. Response if any
shall be filed 5 days from date of mailing of respondents
brief.

Cause shall stand submitted 15 days from today's date.

Court adjourned

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, August 20, 1997

DIVISION ONE

A070695 John Kockos et al. v. Russell D. Keil, Sr. et al.

The judgment is affirmed. Strankman, P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

DIVISION FOUR

A075662 In re Ramon T., a Minor.

The judgment is affirmed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Certified for Publication.)

A077117 The People v. Peter Howard John.

The judgment is reversed. Anderson, P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

A076364 The People v. Jose Daniel Quezada.

The order revoking probation and the sentence are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, August 21, 1997

DIVISION ONE

A076108 In re Anthony S., a Minor.

The order of commitment is affirmed insofar as it finds that appellant committed assault with a dangerous weapon, escape from custody by force or violence, the use of a dangerous or deadly weapon and possession of brass knuckles. In all other respects it is reversed and the matter is remanded to the juvenile court for further proceedings in accordance with the principles stated in this opinion. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076820 The People v. Demetrie Simmons.

The section 12022, subdivision (a)(1) firearm enhancement is reversed. The People may move to withdraw from the negotiated disposition. If no motion to withdraw is served and filed within 60 days of the date this opinion becomes final, the judgment shall be modified to reduce appellant's aggregate sentence by one year for the reversed firearm enhancement. The judgment is modified to correct the misstated two-year term for attempted second degree robbery to one and a half years. As modified, and subject to the People's motion to withdraw from the negotiated disposition, the judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

DIVISION TWO

A072845 The People v. Kevin Maurice Claiborne.

The judgment is affirmed as modified and remanded with directions. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Thursday, August 21, 1997 (continued)

A073473 The People v. Darrin Hughes.

The judgment is affirmed. Haerle, J., We concur: Kline, P.J., Lambden, J.
(Not for Publication.)

A076580 Carpenters 46 Northern California Counties Conference Board. v. Zolman Construction And Development, Inc.

We find the trial court did not abuse its discretion in refusing to award attorneys' fees under section 301 of the LMRA or section 473. We affirm the judgment, and Zolman is to pay costs. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

A071904 The People v. Teryl Anthony Williams.

The judgment is reversed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A073010 The People v. Jose L. Alvarez.

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A073231 The People v. Stanley W. Woodard.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J.
(Not for Publication.)

A074423 The People v. Michael Hester.

Judgment is affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Thursday, August 21, 1997 (continued)

DIVISION FOUR

A074205 The People v. Gerald Chester Martin.

Judgment affirmed. Reardon, J. We concur: Anderson, P.J., Hanlon, J.
(Not for Publication.)

A075238 The People v. Mario T. Ratliff.

The judgment is affirmed. Reardon, J. We concur: Anderson, P.J.,
Hanlon, J. (Not for Publication.)

DIVISION FIVE

A077767 The People v. Michael David Brennan.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, August 22, 1997

DIVISION ONE

A075745 The People v. Barry Shavers.

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A075948 Peter Roybal v. Retirement Board Of The City And County Of San Francisco.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

A076832 Patrick Walsh v. Michael Guzzi.

The judgment is reversed insofar as it denies attorney fees to defendant Guzzi, and the case is remanded to the trial court for further proceedings consistent with the views expressed in this opinion. The judgment is otherwise affirmed. Guzzi shall recover attorney fees and costs on appeal, in an amount to be determined by the trial court. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

A076848 The People v. Willie Donnell Vrons.

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

Friday, August 22, 1997 (continued)

DIVISION FOUR

A075737 James R. McGettigan v. Bay Area Rapid Transit District.

The judgment in favor of respondent is affirmed. Respondent is to recover its costs on appeal. Hanlon, J. I concur: Anderson, P.J. See dissenting opinion of Poche, J. (Not for Publication.)

A075950 The People v. Marites Teresa Combs.

We reverse defendant's conviction under count 17 for possession of a completed check with intent to defraud (§ 475a), and we remand for resentencing. In all other respects the judgment of conviction is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A077908 The People v. James Willie Brinston, Jr.

The judgment is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication)

DIVISION FIVE

A071848 The People v. Daniel Dewayne Rusk.

The judgment is affirmed. Haning, Acting P.J. We concur: Jones, J., Hanlon, J.*. *Associate Justice, Division Four of the first District Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

A074147 Thomas O. Ballard v. Edwin Taylor, Jr.

The appeal is dismissed to the extent it attempts to challenge the May 11, 1995, final judgment. The trial court's February 8, 1996, order denying Ballard a setoff is modified to state the Ballard is entitled to set off the escrow funds against the trebled final judgment. As modified, the order is affirmed. The parties shall bear their own costs on appeal. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, August 25, 1997

DIVISION TWO

A075674 The People v. Michael Marcus Herman.

The matter is remanded to the trial court for calculation of presentence credits for time served and appropriate amendment of the abstract of judgment. In all other respects, the judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

A076703 The People v. Mark A. Parr.

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

A075349 Miu Ling Cheung et al. v. Ron Daley.

The purported appeal from the order denying the disqualification motion is dismissed. The assignment order is affirmed. Plaintiffs shall recover their costs of this appeal. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

(Monday, August 25, 1997 (continued))

DIVISION FIVE

A076721 Carmen Doe et al.; Community Health Foundation of East Los Angeles v. Pete Wilson, as Governor, etc., et al.

The order granting the preliminary injunction is vacated. The matter is remanded to the trial court with instructions to enter a new order, denying the request for a preliminary injunction. Peterson, P.J. We concur: Haning, J., Jones, J. (Certified for Publication.)

A078931 Frank G.; Humboldt County Superior Court v. Humboldt County Department of Social Services.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26, subd. (l).) Since the section 366.26 hearing is set for September 3, 1997, this opinion is final as to this court forthwith. (See Cal. Rules of Court, rule 24(d).) Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, August 26, 1997

DIVISION ONE

A075558 The People v. Dexter B. Brown.

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)m

A075895 The People v. Clifford L. Rhoads.

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A076635 The People v. Andrew G. Griffin.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A073372 Steven D. Christopher v. First Allied Mortgage, Inc., et al.

Accordingly, we affirm the judgment and Christopher is to pay costs. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

A075025 Steven D. Christopher v. Virgil Wayne Ridge et al.

Accordingly, we affirm the judgment and Christopher is to pay costs. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

Tuesday, August 26, 1997 (continued)

DIVISION FIVE

A073848 The People v. Whittier Buchanan.

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FOUR

TUESDAY, AUGUST 26, 1997

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Anderson, P.J., Reardon, J. and Hanlon, J.; Channing Hoo, Deputy Clerk; and CHP Officer C. Reese, Bailiff.

A073187 Magdalena Pineda et al. v. Francois Hibchi et al.

Cause called. Paul Kleven argued on behalf of appellants Pineda et al. Jules S. Zeman argued on behalf of respondents. Cause submitted.

A075243 People v. Patrick Lawayne Perry

Cause called. Charles B. Holzhauer argued on behalf of appellant Perry. David Salmon argued, through teleconference on behalf of respondent. Cause submitted.

A075503 People v. Wilbert Wiltz

Cause called. Gary Garfinkle argued on behalf of appellant Wiltz. Martin S. Kaye argued on behalf of respondent. Cause submitted.

A073694 People v. Ludrate Edward Burton

Cause called. Collen Rohan argued on behalf of appellant Burton. Mia Anna Mazza argued on behalf of respondent. Cause submitted.

A073577 Jerald A. Gatton et al. v. Owens Corning et al.

Cause continued to another calendar shortly before the hearing.

The court recessed at 11:34 a.m.

Court reconvened at 2:00 p.m. Present: Anderson, P.J., Reardon, J., Hanlon, J., Jim Campbell, Deputy Clerk and CHP Officer J. Espinosa, Bailiff.

A073492 Carolyn Martin v. Pacific Gas and Electric Co., et al.
Cause called. Anderson, P.J. recused himself. Cause continued.

A075764 Shari A. Pica, et al. v. Hallgrimson, McNichols, et al.
Cause called. Vincent McLorg argued on behalf of appellants Pica et al. Kevin Wheelwright argued on behalf of respondents. Cause submitted.

A076191 Kenneth H. Klein v. Nature Elements
Cause called. John Moore argued on behalf of appellant Klein. Bruce McIntosh argued on behalf of respondent. Cause submitted.
A074370/A075616 Roman Catholic Archbishop of SF v. City of San Mateo
Causes called. Roy Abrams argued on behalf of appellant City of San Mateo. James Burling argued on behalf of respondent. Causes submitted.

The Court at this point, reconstituted itself to include Anderson, P.J., Poche, J., and Hanlon, J.

A075923 George Soehngen v. A.J. Susini et al.
Cause called. Appellant Soehngen argued in propria persona. Oliver Bray argued on behalf of respondents. Cause submitted.

A076412 Jose Silva et al. v. Union Pacific Railroad Co.
Cause called. Perry Dobson argued on behalf of appellants Silva et al. Michelle Gray argued on behalf of respondent. Cause submitted.

A074343 Richard Earl Gardiner, et al. v. Bank of the West, et al..
Cause called. Maxim Bach argued on behalf of appellants Gardiner et al. Donna Rutter argued on behalf of respondent. Cause submitted.

The court adjourned at 4:25 p.m

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, August 27, 1997

DIVISION ONE

A075146 The People v. Sedric Theon White.

The judgment is modified to correct the award of presentence credit to 282 days actual custody credit plus 140 days conduct credit for total credit of 422 days. As modified, the judgment is affirmed. Strankman, P.J., We concur: Stein, J., Swager, J. (Not for Publication.)

A078434 The People v. Lorenzo Mauldin.

There are no meritorious issues to be argued. The judgment is affirmed. Strankman, P.J. We concur Stein, J., Swager, J. (Not for Publication.)

A075482 Rene McIntyre v. Maria Alicia Ramirez.

The trial court is directed to add the item of relief noted above to its July 15, 1996, order; otherwise the orders appealed from are affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION TWO

A078811 Davies Medical Center v. The Superior Court Of San Mateo County; David Moncrieff, et al., R.P.I.

By The Court: The petition for writ of mandate is denied and the temporary stay of the order compelling the production of the tissue specimen in In the Matter of the Estate of Larry Lee Hillblom, San Mateo County Superior Court No. P101323, is lifted. Haerle, Acting P.J.

Wednesday, August 27, 1997 (continued)

A079233 Ronald Lee Parsons v. The Superior Court of Solano County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of prohibition/mandate is denied and the previously imposed stay of trial in People v. Ronald Lee Parsons in Solano County No. SCR 41737, is lifted. Haerle, Acting P.J.

A079368 Lisa Remaklus v. The Superior Court Of San Francisco County; Donaldson, Lufkin & Jenrette, Inc., et al., R.P.I.

By The Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A079427 M. Armon Cooper v. The Superior Court Of San Francisco County; Nancy B.. Cooper, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

A079543 In re Richard Cross, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A079561 In re James Safrans on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A079616 In the matter of the Conservatorship Of Edward Desouza.

By The Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

A079680 In re Michael Maher on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Wednesday, August 27, 1997 (continued)

A079707 In re Eddie Young on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A079727 Kennedy & Wasserman, Et Al. v. The Superior Court Of Alameda County; 1330 Broadway Company, Et Al., R.P.I.

By The Court: The petition for writ of mandate/prohibition/stay is denied Haerle, Acting P.J.

A079728 Robert G. Burlingame v. The Superior Court Of Alameda County; RTC Mortgage Trust 1994-N2, ET AL., R.P.I.

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

A079762 Ralph Antonio Taylor v. The Superior Court Of Alameda County; The People Of The State Of California, R.P.I.

By The Court: The petition for writ of mandate/prohibition is denied. Haerle, Acting P.J.

DIVISION THREE

A074138 In re Lance S., a Minor.

Reversed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A075217 Arthur Tong et al v. Marshall Cooperson.

The judgment is reversed, and the trial court is directed to enter an order denying Dr. Cooperson's motion for summary judgment. Parrilli, J. We concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A077359 In re Markee R., a Minor.

The order committing appellant to the California Youth Authority is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Wednesday, August 27, 1997 (continued)

A077373 In re Charles J., a Minor.

The jurisdictional and placement orders are affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A074244 The People v. Thomas Jule Flores.

The judgment of conviction is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A076070 Ethel Dotson v. City Of Richmond.

The judgment is affirmed. Appellant to bear costs of appeal. Anderson, P.J. We concur: Poche, J., Hanlon, J. (Not for Publication.)

A076296 Construction Industry Force Account Council et al. v. County Of San Mateo.

The appeal is dismissed. Reardon, J. We concur: Poche, Acting P.J., Hanlon, J. (Not for Publication.)

A076191 Kenneth H. Klein v. Nature's Recipes, Inc.

The judgment is affirmed. Anderson, P.J. We concur: Poche, J., Reardon, J. (Not for Publication.)

Wednesday, August 27, 1997 (continued)

DIVISION FIVE

A071458 & A072585 Mary Wiggins et al. v. Owens-Corning Fiberglas Corporation.

The judgment is reversed and remanded with directions to hold a hearing in compliance with Tech-Bilt, Inc. v. Woodward-Clyde & Associates (1985) 38 Cal.3d 488 to determine the value of the O-I settlement and award respondent credit therefor. In addition, the trial court shall redetermine the allocation of the other settlements in light of Greathouse v. Amcord, Inc. (1995) 35 Cal.App.4th 831. In all other respects the judgment is affirmed. Respondents' motion for sanctions is denied. Costs to appellant. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, August 27, 1997

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Peterson, P.J.; Haning, J.; Jones, J.; and Richard H. Sandvik, Deputy Clerk.

A075061

David Glen et al.

v.

Mannie Joel et al.

Cause called and argued by William K. Thompson, counsel for appellant, and by Brian D. Seilbel, counsel for respondent. Cause ordered submitted.

A076291

Martha D. Murillo

v.

Berkeley Unified School District

Cause called and argued by Sang-Jin Nam, counsel for appellant, and by Malcolm Leader-Picone, counsel for respondent. Cause ordered submitted.

A075680

Suzanne Ramos

v.

Bart McGlothin

Cause called and argued by Rebecca Wiesman, counsel for appellant, and by Jonathan D. Gordon, counsel for respondent. Cause ordered submitted.

A076216

Robert Trumbull et al.

v.

Grem Manufacturing et al.

Cause called and argued by Geoffrey Becker, counsel for appellant, and by Dennis G. Rolstad, counsel for respondent. Cause ordered submitted.

A076008

Lyon Metal Products, Inc.

v.

Board of Equalization

Cause called and argued by Julian O. Standen, counsel for appellant, and by Thomas Loran, counsel for respondent. Cause ordered submitted.

A076130

James R. Hastings

v.

Caroly Hastings

Cause settled, to be dismissed.

A075042

Kirkland Cattle Company et al.

v.

Napa Sanitation District

Cause called and argued by Charles P. Kuntz, counsel for appellant, and by Mary G. Yudien, counsel for respondent. Cause ordered submitted.

A075487

A076657

Robert Silber et al.

v.

City of Arcata

Cause continued to September Calendar.

A076694, In re Guido on Habeas Corpus.

A077254, In re Gonzales on Habeas Corpus.

A079067, In re Frank on Habeas Corpus.

The People

v.

Tracy Jeffrey Guido et al.

Cause called and argued by Corrine S. Shulman and Alan Yockelson, counsel for appellants, and by Richard Rochman, counsel for respondent. Cause ordered submitted.

A074756

The People

v.

Ben Estus Terry, Jr.

Cause called and argued by Jonathan D. Soglin, counsel for appellant, and by Ronald E. Niver, counsel for respondent. Cause ordered submitted.

A076048

The People

v.

Michael Danielle Holloway

Cause called and argued by Nella Bertine, counsel for appellant, and by David D. Salmon, counsel for respondent. Cause ordered submitted.

Court adjourned at 1:20 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, August 28, 1997

DIVISION ONE

A072395 The People v. Johnny Lee Barnes.

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A077726 The People v. August Earl Johnson.

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

A070864/A071375 Vickey Kraus, et al. v. Trinity Management Services, Inc., et al.

With the exception of that portion of the judgment awarding prejudgment interest, which is remanded for further proceedings consistent with this opinion, both the Judgment and the Order Granting Plaintiffs' Motion for Award of Attorney's Fees and Costs are affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

A078865 James Mortenson, et al. v. Occidental Chemical Corp.

By The Court: The above-entitled appeal is ordered transferred from Division Two to Division Three of this court. The related appeal having been previously assigned to Division Three, requires by this court's Internal operating Practices and Procedures, Section 21(b), to transfer this case to Division Three. This order is made pursuant to Rule 20(b)(1) of the California Rules of Court. Strankman, A.P.J.

Thursday, August 28, 1997 (continued)

DIVISION THREE

A068408 LMP Corporation et al. v. Universal Manufacturing Corporation et al.

We therefore, affirm without reservation. Appellees are to receive costs on appeal. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

A068692 & A069047 Division Of Labor Standards Enforcement v. Fidelity Roof Company; Indiana Lumbermens Mutual Insurance Company.

DLSE's complaint against Fidelity was barred by the statute of limitations. Consequently, we reverse that portion of the judgment in favor of DLSE and direct the superior court to enter judgment in favor of Fidelity. DLSE's complaint against Lumbermens was timely. Given that the trial court awarded only unpaid wages, DLSE could properly recover that amount from Lumbermens on behalf of the workers. The prevailing wage law was properly applied here and is not otherwise preempted by ERISA. Consequently, we reverse that portion of the judgment in favor of Lumbermens and direct the superior court to enter judgment in favor of DLSE as against Lumbermens. Each party is to bear its own costs on appeal. Corrigan, J. We concur: Strankman, A.P.J.*, Walker, J. *Administrative Presiding Justice of the First District Court of Appeal, Division One, sitting under assignment by the Chairperson of the Judicial Council. (Certified For Partial Publication)

A070379 Division Of Labor Standards Enforcement v. National American Insurance Company.

The judgment is reversed. Each party is to bear its own costs on appeal. Corrigan, J. We concur: Strankman, A.P.J.*, Walker, J. *Administrative Presiding Justice of the First District Court of Appeal, Division One, sitting under assignment by the Chairperson of the Judicial Council. ((Not for Publication.))

A072220 First Republic Thrift & Loan v. Chicago Title Company et al.

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Thursday, August 28, 1997 (continued)

A075968 Foster Engineering, Inc. v. San Francisco Unified School District.

For the foregoing reasons, the summary judgment on the complaint is affirmed and the cross-complaint is ordered dismissed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A076261 The People v. Marlon James Puckett.

Affirmed. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

A077684 In re William A., a Minor.

The jurisdictional and dispositional orders are affirmed. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

DIVISION FOUR

A074134 In re Christina S., a Minor.

The judgment is affirmed. Reardon, J. We concur: Anderson, P.J., Poche, J. (Not for Publication.)

A074343 Richard Earl Gardiner et al v. Bank of The West et al.

The judgment is affirmed. Costs to respondents. Hanlon, J. We concur: Anderson, P.J., Poche, J. (Not for Publication.)

A075243 The People v. Patrick L. Perry.

The judgment of conviction is affirmed. The sentencing court is directed to enter an amended abstract of judgment awarding appellant custody credits in a manner consistent with this opinion, and to forward a copy of the amended abstract of judgment to the Director of the Department of Corrections. Reardon, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

Thursday, August 28, 1997 (continued)

A075503 The People v. Wilbert Elmer Wiltz.

The superior court is directed to amend the abstract of judgment to reflect that: (1) appellant was convicted in count one of transportation of a controlled substance; and (2) appellant is ordered to pay a restitution fine of \$400 and a \$400 parole fine was suspended. The superior court is further directed to send a copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

A075923 George Soehngen v. A. L. Susini et al.

There was no breach of the Note or violation of the Usury Law. We affirm the judgment. Anderson, P.J. We concur: Poche, J., Hanlon, J. (Not for Publication.)

A077242 The People v. Andrew Bartley.

The judgment is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

A077981 The People v. Richard Wayne Hoover, Jr.

The judgment is affirmed. Poche, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, August 29, 1997

DIVISION ONE

A075966 Citizen Review v. Board Of Permit Appeal.

Order Modifying Opinion And Denying Rehearing The Court: The opinion filed herein on July 30, 1997, is ordered modified in the following particulars: (See order) There is no change in the judgment. The petition for rehearing is denied. Dossee, Acting P.J. (Not for Publication.)

A076319 Sotogrande, Inc. v. Napa Town Center, Ltd, et al.

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Dossee, J. (Not for Publication.)

A077354 In re Joshua Justin T., a Minor.

The order of commitment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

A074402 The People v. Robert James Asberry.

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A079650 In Re Saykham Keomanny, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Friday, August 29, 1997 (continued)

A079750 In re Richard Cross, on Habeas Corpus.

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION FOUR

A076255 The People v. Charles Edward Wade.

The judgment is affirmed. Reardon, J. We concur: Anderson, P.J., Hanlon, J. (Not for Publication.)

A076819 The People v. Michael James Gonzales.

The judgment is affirmed. Hanlon, J. We concur: Poche, Acting P.J., Reardon, J. (Not for Publication.)

A078373 The People v. Kert Charles Henderson.

The judgment is affirmed. Hanlon, J. We concur: Poche, Acting P.J., Reardon, J. (Not for Publication.)